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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,324	12/15/2003	Rick A. Lawson	068341.0109	3731

31625 7590 09/15/2004

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EXAMINER	
LIEU, JULIE BICHNGOC	
ART UNIT	**PAPER NUMBER**
2636	

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/736,324	LAWSON ET AL.	
	Examiner	Art Unit	
	Julie Lieu	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 December 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/15/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-6, 11-15, 22-25, and 27 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,722,185. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 3, 4-6 of the present application are met by claim 1 of the patent, except the claims in the patent are in apparatus form. Similarly, claim 2 is met by claim 2 of the patent. Claims 23-24 are met by claim 3 of the patent. Claims 11-15 are met by claim 4 of the patent . claims 22-25 and 27 are met by claims 5 and 6 of the patent.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoneda et al (US Patent No. 5,123,836). In view of Lamensdorf (US Patent No. 5,568,121).

Claim 1:

Yoneda discloses a method for acquiring and transmitting data between two or more positions or locations relative to a detected condition and/or event in a plant, said method comprising the steps positioning or locating at least one detector (col. 21, 2nd and 3rd paragraph) in the plant to detect a condition or event at a plant position or location. The signals detected by the sensors are transmitted to a device for carrying a corrective action.

The reference fails to disclose using a battery powered RF transmitter in the plant in communications to the detector to transmit ID coded signal relative to the ID code, the detector, and the battery to a central processing location. However, it would have been obvious to one skilled in the art, by the time the invention was made, to a wireless system to communicate a detector signal to a central processing system because such concept is old in the art as taught in Lamensdorf wherein detection signals are wirelessly communicated to a central monitoring

location. Further, wireless communication would reduce the tedious wiring in the system which result in lower cost.

Regarding the claimed transmitter being battery-powered, it would have been obvious to one skilled in the art use battery-powered transmitter because it would eliminate power cables to the transmitter, which in some cases is not convenient due to mounting location of the detector. In addition, wired and wireless transmitter devices are functionally equivalent.

Claim 2:

Yoneda further disclose the step of positioning or locating at least one more detector and/or sensor to detect and/or sense a condition or event at a plant position or location.

Claim 3:

The combined system and method of Yoneda's and Lamensdorf further comprises positioning at least one transmitter in communication with said at least one more detector and/or sensor.

Claim 4:

The battery-powered transmitter taught in Lamensdorf is a spread spectrum transmitter.

Claim 5:

Lamensdorf fails to specify that the one battery-powered radio frequency transmitter is a 900 megahertz spread spectrum transmitter. Nevertheless, the use of 900 MHz transmitter is conventional the art. Thus, it would have been obvious to one skilled in the art by the time the invention was made to have readily recognized using spread spectrum transmitters in the system of Yoneda and Lamensdorf because it would minimize interference and increase reception quality.

Claim 6:

Though not disclosed in Yoneda or Lamensdorf, it would have been obvious to one skilled in the art to transmit the signal on predetermined time intervals because this would allow the detection result to be updated frequently. Also, by transmitting the signal on predetermined time intervals as opposed to continuously transmitting the signal, battery energy would be reserved.

Claim 7:

The combined system in Yoneda and Lamensdorf comprises at least one other RF transmitter.

Claim 8:

The at least one other transmitter in the combined system of Yoneda and Lamensdorf comprises a spread spectrum RF transmitter.

Claims 9 and 10:

Lamensdorf fails to specify that the one battery-powered radio frequency transmitter is a 900 megahertz spread spectrum transmitter. Nevertheless, the use of 900 MHz transmitter is conventional the art. Thus, it would have been obvious to one skilled in the art by the time the invention was made to have readily recognized using spread spectrum transmitters in the system of Yoneda and Lamensdorf because it would minimize interference and increase reception quality.

Claim 11-18:

The plant in Yoneda wherein the device is used is a petrochemical plant. However, it would have been obvious to one skilled in the art to use the combined system of Yoneda and

Lamensdorf in any industrial plant as desired because the environment where the device is used would not modify the function of the device.

Claim 19:

In Yoneda, at least one detector sensor (pressure sensor 101) is positioned in communication with a pipe in said plant.

Claim 20:

In Yoneda, at least one detector sensor (level sensor 105) is positioned in communication with a valve in said plant.

Claim 21:

In Yoneda, at least one detector sensor (pressure sensor 108) is positioned in communication with an enclosure in said plant.

Claim 22:

One of the detectors (sensor 103) in Yoneda detects a temperature.

Claim 23:

One of the detectors (sensor 101) in Yoneda detects pressure

Claim 23:

One of the detectors (sensor 105) in Yoneda detects a level.

Claim 26:

The combined system of Yoneda and Lamensdorf comprises at least a second detector in said plant, said second detector in communication with at least one battery-powered radio frequency spread spectrum transmitter, the second detector detecting temperature.

Claims 27 and 29:

One of the detectors (sensor 104) in Yoneda detects emission (gas).

Claim 28:

No adsorption sensor is disclosed in Yoneda. However, it would have been obvious to one skilled in the art to use an adsorption sensor in the combined system of Yoneda and Lamensdorf as desired depending on its applicability.

Claims 30 and 31:

The level sensor 105 is position in communications with a valve and the pressure sensor 101 is position in communication with a pipe. One skilled in the art would have readily recognized that they would be positioned in communication with a pipe enclosure or a valve stuffing box enclosure if there are enclosures associated with the pipe of the valve.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Anderson, US Patent No. 5,676,712.

Van der Lely et al., US Patent No. 5,272,997.

Burack et al., US Patent No. 4,963,293.

Guy et al., US Patent NO. 5,259,404.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on Mon-Fri 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Julie Lieu
Primary Examiner
Art Unit 2636

Sept. 12, 04